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Attorneys for Defendant  
CITY AND COUNTY OF SAN FRANCISCO  
(ERRONEOUSLY SUED AS SAN FRANCISCO POLICE  
DEPARTMENT)

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

## JAMES EDWARD HOLMES,

Plaintiff,

VS.

SAN FRANCISCO POLICE DEPARTMENT,  
JOSHUA ESPONOZA, EITHINE  
CUMMINS, RALPH KUGER, KEN  
KIKUCHI, ERIK LEUNG, PHILLIP  
FRENKEL, PARMIJIT KAUR, ERIC  
VALENTINE and DOES 1-50.

## Defendants.

Case No. 14-cv-0584

(State Superior Court Case  
No. CGC-13-535534)

**NOTICE TO FEDERAL DISTRICT COURT  
OF REMOVAL OF ACTION FROM STATE  
SUPERIOR COURT  
(PURSUANT TO 28 U.S.C. § 1441(B)  
(FEDERAL QUESTION))**

1 **TO: CLERK OF THE ABOVE-ENTITLED COURT AND TO PLAINTIFF AND TO**  
 2 **PLAINTIFF'S ATTORNEYS OF RECORD:**

3 NOTICE IS HEREBY GIVEN that the City and County of San Francisco<sup>1</sup> ("defendant"),  
 4 named as defendant in the above-captioned action, No. 535534, in the files and records of the Superior  
 5 Court in and for the City and County of San Francisco, hereby files in the United States District Court  
 6 for the Northern District of California a Notice of Removal of said action to the said United States  
 7 District Court, pursuant to 28 U.S.C. §§1441 and 1446, and are filing in said Superior Court a Notice  
 8 of Removal.

9 Defendant, pursuant to 28 U.S.C. §§1441 and 1446, presents the following facts to the Judges  
 10 of the United States District Court for the Northern District of California:

11 A civil action bearing the above-caption was commenced in the Superior Court of California,  
 12 in and for the City and County of San Francisco, Action No. CGC-13-535534, on November 18, 2013,  
 13 is pending therein. The summons and first amended complaint was served on the City on January 10,  
 14 2014.

15 The Complaint in said pending action includes allegations brought under 42 U.S.C. § 1983 that  
 16 the named Defendant violated the civil rights of Plaintiff.

17 This action may properly be removed to this Court pursuant to 28 U.S.C. §1441, for the reason  
 18 that Plaintiff's complaint alleges a violation of laws of the United States.

19 To the extent that Plaintiff's complaint alleges a claim or cause of action other than violations  
 20 of rights under the laws of the United States, said cause(s) of action may be removed and adjudicated  
 21 by this Court pursuant to 28 U.S.C. §1441(c).

22 Pursuant to 28 U.S.C. §1446(b), a copy of the following documents are attached:

23 1. The Summons and Complaint are hereto attached as Exhibit A.

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25 <sup>1</sup> Plaintiff erroneously named "San Francisco Police Department" as a defendant. The San  
 26 Francisco Police Department is a department of the City, and as such, is not an entity that may be sued  
 27 independently of the City. To the extent the San Francisco Police Department remains a defendant in  
 28 this matter, this answer shall be deemed to be on behalf of the San Francisco Police Department. All  
 references in this answer to the City and County of San Francisco shall refer to the San Francisco  
 Police Department as well.

1       2.    Defendant's Answer to Amended Complaint and Jury Trial Demand is hereto attached  
2 as Exhibit B.

3           All other process, pleadings and other orders served upon Defendant in this action will be  
4 forwarded forthwith when they are retrieved from the Superior Court docket.

5           Venue in this district is proper under 28 U.S.C. § 1441 because this District includes the  
6 California Superior Court for San Francisco County, the forum in which the removed action was  
7 pending.

8           Defendant will promptly file a Notice of this Removal with the Clerk of the Superior Court for  
9 San Francisco County and serve the Notice on all parties.

10          WHEREFORE, Defendant pray that the above action now pending in the Superior Court of the  
11 State of California in and for the City and County of San Francisco be removed in its entirety to this  
12 Court for all further proceedings, pursuant to 28 U.S.C. §1441, *et. seq.*

13  
14 Dated: February 10, 2014

15           DENNIS J. HERRERA  
16           City Attorney  
17           CHERYL ADAMS  
18           Chief Trial Attorney  
19           BRIAN P. CEBALLO  
20           Deputy City Attorney

21          By: /s/ Brian P. Ceballo  
22           BRIAN P. CEBALLO

23           Attorneys for Defendant  
24           CITY AND COUNTY OF SAN FRANCISCO

**PROOF OF SERVICE**

I, ANITA MURDOCK, declare as follows:

I am a citizen of the United States, over the age of eighteen years and not a party to the above-entitled action. I am employed at the City Attorney's Office of San Francisco, Fox Plaza Building, 1390 Market Street, Sixth Floor, San Francisco, CA 94102.

On February 10, 2014, I served the following document(s):

**NOTICE TO FEDERAL DISTRICT COURT OF REMOVAL OF ACTION FROM STATE  
SUPERIOR COURT**

on the following persons at the locations specified:

Stanley Goff, Esq.  
Law Offices of Stanley Goff  
15 Boardman Place, Suite 2  
San Francisco, CA 94103  
Telephone: 415-571-9570  
Email: [sraiggoft@aol.com](mailto:sraiggoft@aol.com)  
*Attorney for Plaintiff*

in the manner indicated below:

**BY UNITED STATES MAIL:** Following ordinary business practices, I sealed true and correct copies of the above documents in addressed envelope(s) and placed them at my workplace for collection and mailing with the United States Postal Service. I am readily familiar with the practices of the San Francisco City Attorney's Office for collecting and processing mail. In the ordinary course of business, the sealed envelope(s) that I placed for collection would be deposited, postage prepaid, with the United States Postal Service that same day.

I declare under penalty of perjury pursuant to the laws of the United States that the foregoing is true and correct.

Executed February 10, 2014, at San Francisco, California.

*/s/ Anita Murdock*

Anita Murdock